

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 3:18-cv-10123-KAR

TAMMY CAGLE,
Plaintiff

vs.

JUDGE THOMAS ESTES AND
BEHAVIORAL HEALTH NETWORK,
Defendants

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LOCAL RULE 56.1 STATEMENT OF MATERIAL FACTS BY THE DEFENDANT,
JUDGE THOMAS ESTES

NOW COMES the defendant, Judge Thomas Estes, and, solely for purposes of this Motion for Summary Judgment, respectfully submits this statement of undisputed facts pursuant to Local Rule 56.1 in support of his Motion for Summary Judgment.

PARTIES:

1. The plaintiff, Tammy Cagle (hereinafter “Cagle”), is a resident of New Mexico. (Day 1 Depo. of T. Cagle at 7, a true and correct copy of which is attached hereto as Exhibit 1).
2. The defendant, Behavioral Health Network (hereinafter “BHN”), is a Massachusetts corporation. (Complaint at ¶ 3, a true and correct copy of which is attached hereto as Exhibit 2).
3. The defendant, Judge Thomas Estes (hereinafter “Estes”), was a justice of the District Court for all times pertinent to this action. (Exhibit 2 at ¶ 2; Estes’ Answers to Cagle’s Interrogatories at No. 2, a true and correct version of which is attached hereto as Exhibit 3).

BHN’S CONTRACT WITH THE COMMONWEALTH:

4. The Massachusetts Department of Mental Health (hereinafter “DMH”) is involved in “drug courts” in Orange, Greenfield and Pittsfield. (Depo. of J. Barber at 12-13, a true and correct copy of which is attached hereto as Exhibit 4).
5. DMH is a provider of service to the Massachusetts Trial Court (hereinafter “Trial Court”) in that the Trial Court contracts with DMH to provide clinicians for the drug court programs, and DMH then has contractors who actually provides the clinicians. (Exhibit 4 at 14).

6. The drug courts for Orange District Court and Greenfield District Court have existed since the late 1990s, and the one in Pittsfield District Court (hereinafter “Pittsfield Drug Court”) started in the fall of 2016. (Exhibit 4 at 12-13).
7. John Barber (hereinafter “Barber”) serves as DMH’s court clinic contract manager and area forensics director, and he manages the DMH contracts for the drug courts. (Exhibit 4 at 13-15).
8. BHN is a vendor to DMH and staffs court clinic programs. (Day 1 Depo. of J. Reiss at 11, a true and correct copy of which is attached hereto as Exhibit 5).
9. BHN contracted with DMH by way of a forensic services contract to provide clinician services for the drug courts in Orange Greenfield and Springfield, and the Pittsfield Drug Court. (Exhibit 1 at 189; Exhibit 4 at 15-17; Exhibit 5 at 16; BHN’s Answers to Cagle’s Interrogatories at No. 12, a true and correct copy of which is attached hereto as Exhibit 6).
10. Upon hiring any clinician, BHN introduces the clinician to the presiding justice of the drug court out of deference to the judge’s role and as a courtesy, not out of any employment necessity. (Exhibit 5 at 144-146).

PLAINTIFF’S EMPLOYMENT WITH BHN:

11. Cagle is a licensed social worker, or LCSW, and has worked in various positions at a social worker and therapist. (Exhibit 1 at 9-14, 20-21, 23-25).
12. Cagle became employed with BHN on July 17, 2016. (Exhibit 1 at 24-26, 28; Charge of Discrimination at ¶ 1, a true and correct copy of which is attached hereto as Exhibit 7).
13. Cagle was hired by BHN as an employee of theirs. (Exhibit 1 at 28).
14. Cagle was hired by Dr. Linda Yeh (hereinafter “Dr. Yeh”), an employee of BHN. (Exhibit 1 at 26).
15. BHN identified Cagle to DMH as BHN’s clinician for the Pittsfield Drug Court. (Exhibit 4 at 16-17).
16. All of Cagle’s wages for her work with the Pittsfield Drug Court were paid by BHN. (Exhibit 1 at 62).
17. Cagle’s initial position with BHN was a part-time position as BHN’s clinical coordinator at the Pittsfield Drug Court. (Exhibit 1 at 26, 34, 53-54).
18. Cagle was hired to provide services to participants in the Pittsfield Drug Court, including assessments and treatment planning. (Exhibit 1 at 37).
19. Cagle’s supervisors, Dr. Reiss and David DiSessa (hereinafter “DiSessa”) were employees of BHN. (Exhibit 1 at 30, 53-54, 122; Exhibit 4 at 20).

20. Dr. Reiss supervised approximately eighteen BHN employees, including DiSessa and Cagle, but also clinicians at the other drug courts and a mental health court. (Exhibit 5 at 15-16).
21. After her removal from the Pittsfield Drug Court, BHN had Cagle work as a clinician for BHN at the Sloan Clinic. (Exhibit 1 at 50-52, 57-59, 134).
22. The Sloan Clinic was a treatment center operated by BHN. (Exhibit 1 at 50-51).

PLAINTIFF'S ADMINISTRATIVE FILING:

23. On or about August 2, 2017, Cagle filed a Charge of Discrimination (hereinafter "MCAD Charge") with the Massachusetts Commission Against Discrimination and the U.S. Equal Employment Opportunity Commission against BHN and the Executive Office of the Trial Court. (Exhibit 7; Exhibit 1 at 82-83, 186-187).
24. Cagle identified BHN as her employer in the MCAD Charge. (Exhibit 7).
25. Estes is not named as a respondent. (Exhibit 7).
26. On January 22, 2018, Plaintiff filed the Complaint in this action. (Dkt. No. 1).
27. On October 22, 2019, Plaintiff filed a Complaint against the Trial Court in Suffolk Superior Court. (Complaint, a true and correct copy of which is attached hereto as Exhibit 8; Dkt. No. 1984CV03294, a true and correct copy of which is attached hereto as Exhibit 9).

Respectfully submitted,

THE DEFENDANT
JUDGE THOMAS ESTES

Dated: August 10, 2020

By /s/ Nancy Frankel Pelletier
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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper AND ELECTRONIC copies will be sent to those indicated as non-registered participants** on this 10th day of August, 2020.

**

/s/ Nancy Frankel Pelletier

Nancy Frankel Pelletier